

David Hammerstad
President

Amy Hirotaka
Executive Director

April 28, 2023

Justices of the Washington Supreme Court
P.O. Box 40929
Olympia, Washington 98504-0929
VIA E-MAIL: supreme@courts.wa.gov

RE: WACDL and ACLU-WA support for proposed change to RAP 16.8

Dear Justices:

The Washington Association of Criminal Defense Lawyers ("WACDL") and the ACLU of Washington ("ACLU-WA") write to urge you to amend RAP 16.8 as proposed.

If a defendant challenges his conviction, they can use one of two procedures. They can file a Personal Restraint Petition (PRP) in the Court of Appeals and pay a filing fee of \$250. The court can waive the fee if the defendant is indigent. Alternatively, the defendant can file a motion in Superior Court under CrR 7.8. The Superior Court then either decides the motion or, under certain circumstances, transfers the motion to the Court of Appeals to be decided as a PRP.

If the case is transferred, the defendant must still pay a filing fee of \$250. The amendment would relieve defendants of paying this fee upon transfer. We urge you to adopt this amendment because it is fundamentally unfair to require a defendant to pay a filing fee for a case they did not file. It is not the defendant who causes the Court of Appeals to undertake the administrative work of opening or processing a new case. We are concerned that the filing fee may be a deterrent to challenging an unjust conviction at all, and we ask you to remove this deterrent.

Sincerely,

/s/ La Rond Baker

La Rond Baker
Legal Director, ACLU of Washington

/s/ Emily Gause

Emily Gause
WACDL Court Rules Committee Co-Chair

/s/ John Ziegler

John Ziegler
WACDL Court Rules Committee Co-Chair

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Attached: Comments on court rule proposals with 4/30 deadline
Date: Friday, April 28, 2023 4:12:17 PM
Attachments: [\(2023\) Comments in support of CrR 4.11.pdf](#)
[\(2023\) Comments in support of CrRLJ 7.4 and CrRLJ 7.5.pdf](#)
[\(2023\) Comments RAP 16.8.pdf](#)

From: Amy Hirotaka <amy@wacdl.org>
Sent: Friday, April 28, 2023 3:57 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Attached: Comments on court rule proposals with 4/30 deadline

External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, **DO NOT DO SO!** Instead, report the incident.

To Whom it May Concern:

I am submitting three letters, attached to this email, to the Supreme Court Rules Committee on behalf of the Washington Association of Criminal Defense Lawyers (and one co-signed by ACLU of Washington). The letters contain comments on rule proposals with a comment deadline of April 30, 2023.

I would appreciate confirmation of receipt.

Thank you!

Warm regards,

Amy Hirotaka (she/her)
Executive Director
Washington Association of Criminal Defense Lawyers
1511 3rd Ave Ste 503
Seattle WA 98101
206-623-1302
amy@wacdl.org